IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7388 OF 2005

The State of Maharashtra ...Applicant

Vs.

Dagadu Nana Palkhe & Ors. ...Respondents

Shri U.V.Nikam, A.P.P for the Applicant.
None for the Respondents.

CORAM : A. S. OKA, J.

DATE : NOVEMBER 15, 2006.

P.C.:

1. Heard the learned A.P.P for the Applicant. The Respondents have been tried for offence punishable under section 498A read with section 34 and section 306 read with section 34 of the Indian Penal Code. In addition to that, the first and second Respondents were also charged for offence punishable under section 509 read with section 34 of the Indian Penal Code. The fifth Respondent is the husband of deceased Vimal. The first and third Respondents are parents-in-law of deceased Vimal. The second Respondent is the brother of the fifth Respondent and the fourth Respondent is the sister of the fifth Respondent.

2. The case of the prosecution is that all the

accused were suspecting the character of deceased Vimal after her marriage and were demanding money from her parents from time to time. As a result of cruelty on the part of the accused, deceased Vimal was forced to stay with her parents. The allegation is that the first and second Respondent molested the deceased and outraged her modesty. On 17th February, 2000, when the deceased was residing with her parents she consumed poison due to which she died. On 06th April, 2000 the mother of the deceased lodged the complaint with R.C.F Police Station of cruelty and abetement to commit suicide against the Respondents and the same was treated as F.I.R.

3. Perusal of the impugned Judgment shows that the learned Judge has considered the oral evidence of all the prosecution witnesses. The learned Judge has noted that a statement was given by the mother of the deceased to the police that the deceased was residing with her parents due to quarrels with her family members. Mother of the deceased stated that the deceased consumed poison by mistake on assumption that it was an antacid medicine. The said portions of the statement of the mother of the deceased have been

proved in the evidence of a police constable who was examined as a defence witness. The said statement of the mother has been recorded on 18th February, 2000. As stated earlier R.C.F Police Station recorded the complaint of the mother of the deceased for the first time on 06th April, 2000 in which allegation was made as regards offence under section 498A, 509, 306 read with section 34 of the Indian Penal Code. One of the grounds for disbelieving the prosecution case is delay in lodging the complaint.

4. So far as the allegation regarding outraging the modesty of the deceased by the first and second Respondents is concerned, the incident relates to 15th August, 1999. For an incident of the same date, a N.C. was recorded by the deceased with the concerned Police Station where allegation was made as regards demand of some amount by the first and second Respondents. The learned Judge found that in the said N.C. registered at the instance of the deceased there was no allegation regarding molestation or outraging her modesty. According to the prosecution case, the deceased had disclosed to her mother that her modesty was outraged. However, the mother did not file any complaint. On

03rd February, 2000 i.e prior to the date on which the deceased allegedly consumed poison, the parties had approached social security branch of the police in Mumbai. A meeting was held which was attended by the fourth and fifth Respondent as well as the deceased. In the said meeting, the deceased expressed willingness to come back to her matrimonial home. The statement of the deceased recorded at that time has been proved in evidence. However, on the date on which the poison was allegedly consumed by the deceased, she was staying with her parents.

5. It is obvious that the view taken by the learned Judge is a possible view which could have been taken on the basis of the evidence on record. Merely because another view is possible to be taken is no ground to entertain the Appeal for acquittal. No case is made out for grant of leave. Accordingly, Application is rejected.

JUDGE